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ALIENWARE CORPORATION

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN FRANCISCO DIVISION

16  
17 HARRY OESTREICHER, on behalf of  
himself and all others similarly situated,  
18 Plaintiff,  
19 vs.  
20 ALIENWARE CORPORATION and  
DOES 1-100, inclusive,  
21 Defendants.  
22

23 Case No. C07-0512 MHP

24 **STIPULATION AND [PROPOSED]  
ORDER EXTENDING DEFENDANT  
ALIENWARE CORPORATION'S  
TIME TO RESPOND TO PLAINTIFF'S  
FIRST AMENDED COMPLAINT UNTIL  
AFTER THE INITIAL CASE  
MANAGEMENT CONFERENCE**

25 Pursuant to Civil Local Rules 6-1, 6-2 and 7-12, Defendant Alienware Corporation  
26 ("Alienware") and Plaintiff Harry Oestreicher ("Plaintiff"), by and through their respective  
counsel, hereby stipulate as follows:

27 1. On August 10, 2007, the Court entered an order ("Arbitration Order") denying  
28

1 Alienware's motion to stay these proceedings and compel arbitration of Plaintiff's claims.  
2 Alienware has appealed the Arbitration Order and has moved this Court to stay proceedings  
3 herein pending resolution of that appeal by the Ninth Circuit. Plaintiff opposes that motion to  
4 stay. The Court has not yet ruled on Alienware's request for a stay pending appeal.

5 2. Pursuant to prior stipulation and Court order, Alienware's response to the First  
6 Amended Complaint ("FAC") was originally due thirty days from the date of service of the  
7 Arbitration Order, on September 10, 2007.

8 3. Alienware then requested an additional ten (10) days to answer or otherwise  
9 respond to the FAC. To accommodate counsel's schedule, Plaintiff agreed to Alienware's  
10 request. Pursuant to the Court's August 30, 2007 Order, Alienware's response is currently due on  
11 September 20, 2007.

12 4. The initial Case Management Conference has not yet been scheduled. This  
13 Court's Standing Order requires that "[m]otions to dismiss shall not be filed before the initial  
14 Case Management Conference except by leave of court." Standing Order ¶ 4. Alienware intends  
15 to move to dismiss the FAC.

16 5. In light of this Court's Standing Order and Alienware's decision to move to  
17 dismiss Plaintiff's claims, the parties have agreed that Alienware may have up to and including  
18 the day after the initial Case Management Conference to file its motion to dismiss, and request  
19 that the Court adopt this agreement by order set forth below.

20 IT IS SO STIPULATED.

21 I, C. Brandon Wisoff, attest that concurrence in the filing of the above stipulation and  
22 [proposed] order has been obtained from counsel for Plaintiff.

23 DATED: September 19, 2007

FARELLA BRAUN & MARTEL LLP

24

25 By: /s/  
26 C. Brandon Wisoff

27 Attorneys for Defendant  
28 ALIENWARE CORPORATION

1 DATED: September 19, 2007

DAVID P. MEYER & ASSOCIATES, CO.  
LPA

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By: /s/  
Matthew R. Wilson

Attorneys for Plaintiff  
HARRY OESTREICHER

PURSUANT TO STIPULATION, IT IS SO ORDERED. \*

DATED: 9/20/2007



\* The Case Management Conference in this case is set for October 29, 2007 at 3:00 p.m. A joint case management conference statement shall be filed not later than October 22, 2007.

**PROOF OF SERVICE BY MAIL**

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 235 Montgomery Street, 17th Floor, San Francisco, California 94104. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On September 19, 2007, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

**STIPULATION AND [PROPOSED] ORDER EXTENDING DEFENDANT ALIENWARE CORPORATION'S TIME TO RESPOND TO PLAINTIFF'S FIRST AMENDED COMPLAINT UNTIL AFTER THE INITIAL CASE MANAGEMENT CONFERENCE**

**DECLARATION OF KIM E. BRIGHTWELL IN SUPPORT OF STIPULATION AND [PROPOSED] ORDER EXTENDING DEFENDANT ALIENWARE CORPORATION'S TIME TO RESPOND TO PLAINTIFF'S FIRST AMENDED COMPLAINT UNTIL AFTER THE INITIAL CASE MANAGEMENT CONFERENCE**

in a sealed envelope, postage fully paid, addressed as follows:

Patrick G. Warner (Ohio Bar No. 0064604)  
DAVID P. MEYER & ASSOCIATES, CO.  
LPA  
1320 Dublin Road, Suite 100  
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200 S. E. 1<sup>st</sup> Street, Suite 708  
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Attorneys for Plaintiff/Appellee

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 19, 2007, at San Francisco, California.

/s/  
Clare Hart